

REMARKS

Claims 1-22 are currently under examination and stand rejected. Claim 1 has been amended to clarify that the contact lens is noninvasive. Support for this amendment can be found in the drawings at Figures 4 and 5 which provide illustrations of the device. Claim 1 has also been amended to clarify that the lens includes a photoconductive member. Support for this amendment can be found in the specification at lines 24-30 which describe the operation of the photoconductive member. Claim 2 has been amended to delete the phrase “or an inductive effect.” Other amendments to the claims are directed to minor formatting and are not believed to be substantive. Therefore, Applicant submits that no new matter has been added by way of amendment.

New corrected drawings have been submitted to address the draftsperson’s requirements in paragraph 1 of the Office action.

The title has been replaced with a new more descriptive title to address the rejection in paragraph 2 of the Office action.

Claims 7 and 21 have been amended to address the objections raised in paragraphs 3 and 4 of the Office action.

Claims 5 and 6 were rejected under 35 USC § 112 as being indefinite because the phrase “arranged in a shunt manner” was considered unclear. The claims have been amended to replace the term shunt with the term “series.” Support for the amendment can be found in Figure 12 A and B for example where one of skill in the art would understand that the substrates are arranged in a series.

Claim 8 was rejected as failing to comply with the written description requirement as it was allegedly not disclosed in the specification in a way to convey to one skilled in the art that the inventor had possession of the claimed invention when the application was filed. Applicant respectfully disagrees with the rejection because one of skill in the art would readily understand that photodiodes and phototransistors are interchangeable. A definition showing the close relationship between phototransistors and photodiodes is attached at Appendix B. In addition, the claims are a part of the specification and claims 7 and 8, when taken together, clearly convey that a phototransistor could be interchanged with a photodiode.

Claims 1-2, 5-8, 10 and 21 stand rejected under 35 USC § 102(b) as being anticipated by *Abreu* (US Patent 6,123,668). The Office action took the position that *Abreu* discloses a neuro-stimulation transmission device that is “externally placed on the eye using an oversized contact device as a corneal scleral lens. In addition, the Office action took the position that teaching of a device that produced a microcurrent, a microphotodiode or electrode, a power source and a transmitter for transmission of a signal to a remote location for analysis and storage equates to a contact lens with a member embedded in a surface thereof for electrically stimulating an eye of a wearer of the lens.

Applicant respectfully requests that the basis for this rejection be reconsidered and that the rejection be withdrawn because the *Abreu* devices are excluded by the present invention which requires a contact lens with a photoconductive member embedded in a surface thereof for electrically stimulating an eye of a wearer of the lens. *Abreu* fails to disclose electrical stimulation of the eye or any structures that could be used to electrically stimulate the eye in a therapeutic manner, the mere fact that various electrical components are present in the *Abreu* device does not enable the device to electrically stimulate the eye. In fact, *Abreu* appears to have the opposite purpose of receiving stimulation from the eye and sending a signal to a remote location. In contrast, the presently claimed invention receives a signal, such as a light, from a remote location and converts the signal to an electrical field which is applied to and stimulates the eye. Thus, Applicant respectfully submits that *Abreu* does not anticipate the invention of Claim 1 and requests that the basis for rejection be reconsidered and the rejection be withdrawn.

The claims were also rejected under 35 USC § 103 as being obvious over *Abreu* in view of *Chow* (US Patent Appl. 2003/0014089). While the Office action appreciates that *Abreu* lacks a teaching that the substrate is activated by exposure to electromagnetic radiation in the near infrared spectrum, the Office action takes the position that *Chow* discloses at least two photodiodes to “provide biphasic and variable levels of stimulating electric currents both controlled by the use of different wavelengths of external and visible or infrared light.” The Office took the position that it would have been obvious to combine the references because they both teach electrical stimulation of the eye in response to an external stimulus.

Applicant respectfully requests that the basis for this rejection be reconsidered and the rejection be withdrawn. Initially and as indicated above, Applicant submits that *Abreu* lacks a

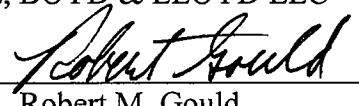
teaching of electrical stimulation of the eye, as required by the present invention. Thus, Applicant submits that *Chow* and *Abreu* are directed to fundamentally different inventions and there would be no logical reason to combine them. *Abreu* is directed to receiving a signal from the eye and sending that signal to a remote location. In contrast, *Chow* is directed to therapeutic treatments of the eye that involve direct electric stimulation. Moreover, the teaching of *Chow*, if anything, teaches away from a combination that would provide the present invention in that *Chow* teaches the use of invasive devices which are said to be more efficient at directing electric current flow between the stimulating and ground return electrodes. (¶ 59, line 7-12; see also ¶ 58, l. 9, ¶60, l. 5-7, for example). Thus, even if there was a reason to combine *Chow* with *Abreu*, which Applicant denies, the combination would likely result in an invasive contact lens having an electrode that would require implantation into the eye. In contrast, the present invention is directed to a noninvasive contact lens with a photoconductive member embedded in a surface thereof for electrically stimulating an eye of a wearer of the lens. For at least these reasons, Applicant believes that Claim 1 is allowable over *Abreu* and *Chow* and requests that the rejection be reconsidered and withdrawn.

For the reasons set forth above, Applicant submits that Claim 1 is allowable. Similarly, Claims 2-22 which depend from Claim 1 and therefore contain all of its limitations are believed to be allowable for at least these same reasons.

An earnest endeavor has been made to place this application in condition for allowance, and such allowance is courteously solicited. If the Examiner has any questions regarding this Response, or is of the opinion that prosecution could be advanced by a telephone call, the Examiner is encouraged to contact the undersigned. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

Respectfully submitted,

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